

REMARKS

This amendment is in response to the Office Action of March 8, 2005.

Regarding paragraph 1, Figure 3 has been revised in accordance with Examiner's suggestion. Acceptance of the drawings as revised is requested.

Regarding paragraph 2, the specification has been amended in accordance with Examiner's suggestions.

Regarding paragraph 3, the rejections under 112 are noted and Examiner's suggestions for overcoming same have been incorporated into the revised claims. More particularly, claim 1 has been cancelled and replaced by newly presented claim 15, which is thought to overcome the noted deficiencies in the prior claim. Claim 2 through 6 have been amended in accordance with Examiner's suggestions. Claim 7 has been amended to depend from claim 2 and the unnumbered claim is herein presented as claim 14. Claim 8 through 12 have been amended to depend, directly or indirectly from claim 2 and amended to provide greater antecedent clarity in accordance with Examiner's suggestion. Claim 13 as amended is consistent with Examiner's suggestion.

The conditional allowance of claims 2 through 6 is noted. The conditions for allowance are thought to be satisfied by the noted amendments. Allowance thereof is requested. Claims 7 through 12 now depend from claim 2, have been amended to overcome the noted objections, and are accordingly thought to be allowable. Claim 14 depends from claim 2 and should also be allowable. Accordingly, allowance of claims 7 through 12 and 14 is requested.

Claims 1 and 9 were rejected using Rawls, Austin and Cunningham as primary references. Independent claim 15, based on original claim 1, and amended claim 13 set forth with greater clarity patentable differences over these primary references. As Examiner well knows, the improvements of the invention are provided in sequential steps. First the cover is placed over the fire

ant mound to encompass escape routes. Second, the auger is lowered to penetrate the top of the mound. Third, the auger tip is rotated to disturb the mound to attract the ants and the eradicating agent dispensed. The noted references do not provide such structure or function.

In Rawls, the steam generator is lowered to the ground by the three point tractor hitch, resulting in a fixed location. Only thereafter is the probe 28 axially lowered by the cylinder 22. Subsequent to lowering the probe, there is no probe rotation taught, suggested or possible in the Rawls generator. Austin is a fixed rigid assembly for watering lawns. The nozzle 4 does not shift axially or rotatably with respect to the base 5. The base 5 does not engage the ground prior to penetration by the tip 13. The Cunningham device is used to penetrate floors to inject water into an adjoining space. The tip penetrates the floor before the base engages making the device unsuitable in a fire ant environment.

These distinctions are clearly delineated in the herein presented claims. Claim 13 has been amended to recite that rotating the tip to disturb the mound to attract fire ants is after the tip has penetrated the mound. This beneficial sequencing is not taught, suggested or possible in the Rawls steam generator. Accordingly, its submitted that amended claim 13 recites patentable novelty and allowance is requested.

Claim 15 recites that the threaded coupling means cooperate between the upper end of the tubular member and the collar and are effective at a lower position to cause the rotation and further axial advancement for disturbing the mound and attracting the fire ants. As discussed above, no such movement is possible in Rawls. Further the tubular member is slidable to a raised position within the cavity, which prevents penetration of the mound before the enclosure is in place. In Austin, the tip 4 has a fixed raised position projecting below the base 5. In Cunningham the maximum raised position is below the base. Thus

in both references, if used for the non-suggested use as a fire ant trap, the tips would penetrate the mound before positioning the enclosure thus permitting the ants to escape. For these reasons, it is submitted that claim 15 recites patentable novelty and allowance is requested.

For the foregoing reasons, it is submitted that claims 2 through 15 recite patentable novelty over the references of record and allowance thereof is respectfully requested.

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Respectfully submitted,

MILLS LAW FIRM, PLLC



Peter D. Sachtjen, Reg. No. 24,619

Mills Law Firm, PLLC
Post Office Box 1245
Cary, NC 27512
Phone: 919-462-3036
Facsimile: 919-462-3041
Attorney Direct Line: 252-413-0475